

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY M. ELLIS,

Plaintiff,

-against-

C.O. SONKO; SGT. MONTGOMERY,

Defendants.

21-CV-4766 (KMK)

ORDER

KENNETH M. KARAS, United States District Judge:

Plaintiff Anthony M. Ellis was incarcerated at Downstate Correctional Facility (Downstate) when he filed this pro se complaint, which is dated May 23, 2021. On June 3, 2021, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, in forma pauperis (IFP), and the Clerk's Office mailed a copy of the order to Plaintiff at Downstate that same day. On June 16, 2021, the order was returned to the Court as undeliverable. According to the New York State Department of Corrections and Community Supervision website, Plaintiff was paroled on May 27, 2021.

Under Rule 41(b) of the Federal Rules of Civil Procedure, a district court may dismiss an action sua sponte for failure to prosecute after notifying the plaintiff that it intends to do so. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001); see *Fields v. Beem*, No. 13-CV-0005 (GTS/DEP), 2013 WL 3872834, at *2 (N.D.N.Y. July 24, 2013) ("A plaintiff is required to notify the Court when his address changes, and failure to do so is sufficient to justify dismissal of a plaintiff's complaint.") (collecting cases).

The Court directs Plaintiff to update his address of record within 45 days of the date of this order. If Plaintiff fail to comply with this order, the Court will dismiss the action without prejudice for failure to prosecute.

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.¹

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: June 21, 2021
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', written over a horizontal line.

KENNETH M. KARAS
United States District Judge

¹ Because Plaintiff has not updated his address, in all likelihood he will not receive the order by mail. If Plaintiff remains interested in litigating this case, it is his responsibility to find out the status of this matter, which he can do by calling the Clerk's Office or visiting in person.